



Johnson explained because medical marijuana is banned by federal law, no charge transactions are allowed. Medical marijuana is purchased using high dollar cash transactions, which could cause security issues. She said there is a black market for marijuana. Other cities are looking at where is the safest area to locate a distribution facility and whether or not there is a better place for it within the City's zoning code and performance standards.

Police Chief Potts said it would be good to have more time to research the security of a facility and said locating it in an industrial area might put people at risk. He said locations in proximity to schools, daycares, etc. should be studied. He said there should be development standards to handle the security of such a facility. Staff would definitely like the time to study this issue.

Lee confirmed staff's direction is to adopt a resolution imposing an interim moratorium on medical cannabis or marijuana at a future meeting.

Abrams asked about the other cities that have already executed moratoria. Potts replied Richfield, Maple Grove, Duluth and possibly St. Cloud.

Baloga asked if this type of facility would be allowable under the City's current zoning. Johnson said it would be difficult to say that it's prohibited.

Baloga asked if anything that permits retail would fall under the City's permitted use.

Lee said an applicant could make that argument and would likely be successful.

Busse agreed it makes sense to impose a moratorium and take the necessary time to study this issue. He said there should be some Best Practices out there nationwide the City could put to use.

Johnson commented the Minnesota Association of City Attorneys is looking at this comprehensively.

Lee said the moratorium ordinance that gets put onto a Council agenda would be for a longer time which the Council can shorten if it so desires.

Oleson supported the moratorium stating a standalone business will make the users vulnerable if it has to be strictly a cash operation.

Abrams said this topic was discussed at the last Minnesota Health Department's Community Health Services Advisory Committee meeting and reported two of the vendors have made it through the process. She questioned the demand for medical marijuana given there will only be eight distribution centers across Minnesota. Potts stated it's still unknown as to what will happen down the road.

Lee directed the Council to make a motion at tonight's regular meeting and vote on it indicating their intent to have staff issue a moratorium ordinance with regard to medical marijuana facilities at a future meeting.

## **6.2 Old Cedar Avenue Bridge Funding Discussion**

This item was taken first. It was presented by City Engineer Shelly Pederson.

Requested Action: Provide an update to the City Council regarding the funding of the Old Cedar Avenue Bridge (OCAB) project. No action required.

City Engineer Shelly Pederson presented a slide presentation on the Old Cedar Avenue Bridge Rehabilitation & Trailhead Funding item. She said an item ordering the OCAB Project is on tonight's regular meeting agenda for approval. Staff anticipates accepting bids at the February 2 meeting and awarding the project at the March 2 meeting, with construction anticipated to begin in late March. She explained a glitch in the timetable is that the Minnesota Department of Transportation (MnDOT) hasn't yet received a check from the federal government, which is required before the City can advertise for bids. That could push the schedule back a week or so. She said the estimated project costs were recalculated by the City's consultant due to costs on other MnDOT bridge projects coming in at figures higher than the Engineer's estimates due to higher labor costs and a shortage of materials.

Pederson compared the project estimates as of the fall of 2013 vs. the January 2015 estimate of \$21,472,460 stating it will cost an estimated \$4.9 million to complete the project. She said these are bid estimates and that the actual bid could come in lower.

Abrams asked about the reason for the difference in the trailhead and signage estimates. Pederson said most of it has to do with higher end signage that is required by the Legislature and said the City is short money for the trailhead/signage.

Winstead asked staff to provide a solid opinion by the next meeting on whether the City would have to install signage according to the legislation that was adopted for the bridge if the project is over budget. Pederson to provide a legal opinion on that by the next meeting. She referenced the information she provided Council on possible bridge funding options. She explained if the City doesn't first complete the bridge using the Tax Increment Financing (TIF) money, it could affect the TIF for the Mall of America (MOA) and Bloomington Central Station (BCS).

Baloga asked about contributions from Hennepin County, etc. Pederson explained funding is coming from a \$2 million Sarbanes grant, \$10,250,000 in Fiscal Disparities TIF, \$3,300,000 from a State bonding grant, \$0 from Hennepin County, \$75,000 from Dakota County for maintenance of the bridge only, and \$1 million in Strategic Priorities. She said if the bids come in higher, staff will present to Council again on February 9 if there isn't enough funding for the trailhead and signage package. She said staff will keep Council informed via City Manager's Information (CMI).

Winstead asked if Fiscal Disparities TIF could be allocated towards the bridge. Lee said that would require a conversation with the MOA.

Winstead said the Old Cedar Avenue Bridge was specifically added into Development District 1 and asked if those funds could be used as a possible funding source. Staff to get an answer on that.

Oleson asked for an explanation regarding the Carlton TIF.

Winstead said it's a fund left over from the old Carlton site.

Lee explained the City acquired the Carlton site in order to build Killebrew Drive and provide access to the properties along the south side of Killebrew Drive. The City acquired that property to provide the access because it was cheaper than the takings on the other properties. The City then resold it for redevelopment.

**6.3 Briefing on Mall of America Protests**

This item was taken second. It was presented by Chief Potts and City Attorney Sandra Johnson.

Requested Action: Provide an update on the December 20, 2014, protest that occurred at the Mall of America (MOA). No action required.

Chief Potts described the events that led up to the protest that occurred at the Mall of America on December 20, 2014; the busiest shopping day at the Mall. He talked about when the Police Department received word about a possible Black Lives Matter protest at the Mall and the efforts taken to connect with the protest organizers to try and come up with ideas for how the protestors could achieve their objective in a legal manner regarding where the protest was to occur. He said a location across the street adjacent to the Mall was offered. He reported the protest leader made it clear the protest was going to occur inside the Mall. He went on to say the protest did occur inside the MOA and described the number of Bloomington Police officers, Mall security, and outside agency personnel that were present at the time of the protest. He described when, where, and how many people were demonstrating. He said 80-100 stores, which include kiosks, were closed for 2-3 hours. He talked about the 24 people who were arrested in the east parking ramp on a variety of misdemeanor charges. He said the P.D. has spent time watching videotape, which will be turned over to the City Attorney's office; a process that should be complete by the end of the week. He said the costs for additional staff during this event have exceeded \$25,000. The other agencies are figuring out their costs.

City Attorney Johnson went on to explain her office has received communication asking that her office be influenced by political considerations in its charging decision. She said staff can't allow politics to enter into prosecutorial discretion, as no favoritism can be shown. She said other protests have occurred in the past and the City of Bloomington follows standard operating procedures. She said that provides equal treatment under law and ensures justice is provided to everyone. She talked about the Wiklund decision from the past that determined the MOA is private property and the City can't allow protestors on MOA property against the owner's permission. With regard to public forum, she said in that same case, the Supreme Court said the City can't convert private property to public use by public funding, by the invitation to shop and be entertained, or by the coordination of public safety events. She mentioned the conversation she had with U.S. Representative Keith Ellison. She said everyone will be treated with respect and dignity. Justice will be done in this case; but it has to go through the process.

Potts added another 100 officers reported to the MOA at the peak of the protest on December 20 because the P.D. wasn't sure what some of the protestors were going to do. He said although the majority of the people present were peacefully protesting, there were groups that were spitting on the officers, yelling and screaming obscenities, of which there is video. He said officers used amazing restraint that day adding there could have been a lot more arrests than 25 as a result of the actions of the protestors. While the majority of the protestors were peaceful, the police needed to be prepared in case they weren't.

Council members were requested to contact her directly with any questions.

Winstead said Council can't ask to have speeding tickets fixed for people or anything else that is illegal. He said attorneys are sworn to uphold the law and do what is necessary if laws are broken. He said someone asked him why the protestors couldn't be issued a warning rather than a ticket and he replied the police did issue a warning before the event happened.

Lee commented many people are putting forth their legal theories as to what should apply to the Mall but those theories have been argued and determined at the Supreme Court level for this specific facility.

Busse said he fully supports Police Chief Potts and City Attorney Johnson in their actions. The costs related to the protest are significant and so are the costs to the MOA. Despite having been warned, the protestors went through with the protest.

Winstead said the cause and the message being brought forth by the protests is one of looking for justice and correctness in society but said the message is now getting intermixed with the process and it's hard for those who feel strongly about this to pull the two apart.

Johnson explained the City's position is not profits over people and it never has been.

Oleson said he wasn't at the Mall but saw the protest online. He said the system needs to proceed regarding this protest which was civil except for the spitting on the officers. He said this is an important time for the City to be among those organizations that are talking about ways it can help with the core issues, which is what the protest was addressing. He said events like this have polarized people even more than they already are so it's important the Council and City staff step forward as representatives of this city to work on this.

Baloga thanked Chief Potts and the officers for their work during the protest stating it takes a lot of self-control to withstand the kind of treatment the officers were subjected to.

Potts stated Deputy Police Chief Mike Hartley was the on-scene commander that day at the Mall and also commented on the restraint shown by the officers.

## **7      ADJOURN MEETING**

Mayor Winstead adjourned the study meeting at 6:24 p.m.

Barbara Clawson  
*Council Secretary*